

## The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

## POLARIS POWERLED TECHNOLOGIES, LLC,

**Plaintiff,**

V.

NINTENDO CO., LTD., and  
NINTENDO OF AMERICA, INC.,

## Defendants.

No. 2:22-cv-00386-JLR

**[PROPOSED] ORDER  
GRANTING PLAINTIFF'S  
MOTION TO DISMISS  
COUNTERCLAIMS AND  
STRIKE IMPERTINENT AND  
IMMATERIAL ALLEGATIONS**

Noted on Motion Calendar:  
August 5, 2022

THIS MATTER comes before the Court on Plaintiff Polaris PowerLED Technologies LLC’s (“Polaris”) Motion to Dismiss and Strike Impertinent and Immaterial Allegations. The Court having considered the files and records herein, including:

1. Plaintiffs' Motion to Dismiss Counterclaims and Strike Impertinent and  
Immaterial Allegations;

2. Defendants' Nintendo Co. Ltd. ("NCL") and Nintendo of America Inc.'s ("NOA") (collectively, "Nintendo") Response and any supporting materials; and

3. Plaintiffs' Reply and any supporting materials;

and being fully advised, the Court GRANTS Plaintiff's motion as follows:

[PROPOSED] ORDER GRANTING PLAINTIFF'S  
MOTION TO DISMISS COUNTERCLAIMS AND STRIKE  
IMPERTINENT AND IMMATERIAL ALLEGATIONS  
No. 2:22-cv-00386-JLR – Page 1



**ARÈTE LAW GROUP**  
1218 THIRD AVE., STE 2100  
SEATTLE, WA 98101  
O: (206) 428-3250

[ ] The Court GRANTS Polaris's Motion to Dismiss NOA's counterclaims under Fed. R. Civ. P. 12(b)(6). NOA's counterclaims asserted in Nintendo's Answer, Affirmative Defenses, and Counterclaims to Complaint (Dkt. No. 13) are DISMISSED WITHOUT PREJUDICE.

[ ] The Court GRANTS Polaris's Motion to Strike Immaterial and Impertinent Allegations in paragraphs 6-10, 21-46, and 49-51 of NOA's counterclaims in Nintendo's Answer, Affirmative Defenses, and Counterclaims to Complaint (Dkt. No. 13).

Nintendo is DIRECTED to file a First Amended Answer, Affirmative Defenses, and Counterclaims with the stricken paragraphs removed within ten (10) days of the date of this Order.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

The Honorable James L. Robart  
United States District Judge

*Presented by:*

**KRAMER DAY ALBERTI LIM  
TONKOVICH & BELLOLI LLP**

By: /s/ Robert F. Kramer  
Robert F. Kramer (*pro hac vice*)  
M. Elizabeth Day (*pro hac vice*)  
David Alberti (*pro hac vice*)  
Sal Lim (*pro hac vice*)  
Russell S. Tonkovich (*pro hac vice*)  
Marc Belloli (*pro hac vice*)  
Sven Raz (WA Bar No. 48093)  
Aidan Brewster (*pro hac vice*)

[PROPOSED] ORDER GRANTING PLAINTIFF'S  
MOTION TO DISMISS COUNTERCLAIMS AND STRIKE  
IMPERTINENT AND IMMATERIAL ALLEGATIONS  
No. 2:22-cv-00386-JLR – Page 2



---

**ARÈTE LAW GROUP**  
1218 THIRD AVE., STE 2100  
SEATTLE, WA 98101  
O: (206) 428-3250

1      577 Airport Boulevard, Suite 250  
2      Burlingame, CA 94010  
3      Phone: (650) 825-4300  
4      Fax: (650) 460-8443  
5      rtonkovich@kramerday.com  
6      sraz@kramerday.com  
7      abrewster@kramerday.com  
8      dalberti@kramerday.com  
9      eday@kramerday.com  
10     mbelloli@kramerday.com  
11     rkramer@kramerday.com  
12     slim@kramerday.com

13     **ARETE LAW GROUP PLLC**

14     By: /s/ Jeremy E. Roller  
15     Jeremy E. Roller, WSBA No. 32021  
16     1218 Third Avenue, Suite 2100  
17     Seattle, WA 98101  
18     Phone: (206) 428-3250  
19     jroller@aretelaw.com

20     *Attorneys for Plaintiff/Counterclaim  
21     Defendant Polaris PowerLED  
22     Technologies, LLC*



## CERTIFICATE OF SERVICE

I hereby certify that on this date I caused true and correct copies of the foregoing document to be served upon the following, at the addresses stated below, via the method of service indicated.

COOLEY LLP

Stephen R. Smith (*pro hac vice*)  
Alli Elkman (*pro hac vice*)  
1299 Pennsylvania Ave NW, Suite 700  
Washington, D.C. 20004  
Telephone: +1 202 842 7800  
Fax: +1 202 842 7899  
[stephen.smith@cooley.com](mailto:stephen.smith@cooley.com)  
[aelkman@cooley.com](mailto:aelkman@cooley.com)

E-mail  
 U.S. Mail  
 E-filing

Matthew J. Brigham (*pro hac vice*)  
Dena Chen (*pro hac vice*)  
Deepa Kannappan (*pro hac vice*)  
3175 Hanover Street  
Palo Alto, CA 94304-1130  
Tel. (650) 843-5000  
Fax: (650) 849-7400  
[mbrigham@cooley.com](mailto:mbrigham@cooley.com)  
[dchen@cooley.com](mailto:dchen@cooley.com)  
[dkannappan@cooley.com](mailto:dkannappan@cooley.com)

E-mail  
 U.S. Mail  
 E-filing

## **LOWE GRAHAM JONES PLLC**

Andrew Graham Jones (Bar No. 299599)  
Mark P. Walters (Bar No. 30819)  
Lawrence D. Graham, WSBA No. 25402  
1325 Fourth Street, Suite 1130  
Seattle, WA 98101  
Telephone: +1 206 381 3300  
Fax: +1 206 381 3301  
[graham@lowegrahamjones.com](mailto:graham@lowegrahamjones.com)  
[walters@lowegrahamjones.com](mailto:walters@lowegrahamjones.com)

E-mail  
 U.S. Mail  
 E-filing

*Attorneys for Defendant/Counterclaim Plaintiffs  
Nintendo of America Inc. and Nintendo Co., Ltd.*

1      Dated this 14<sup>th</sup> day of July, 2022 in Seattle, Washington.

2                    /s/ Janet C. Fischer  
3                    Janet C. Fischer  
4                    Paralegal  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26